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Attorneys for Defendant Somerset Tire Service, Inc. improperly implied
as STS Tire and Auto Center

Our File No. UU 19502 SSX-3

WILLIAM J. EBNER,

Plaintiff,

vs.

STS TIRE AND AUTO CENTER,

Defendant.

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
CIVIL ACTION NO.

**ANSWER, SEPARATE DEFENSES,
JURY DEMAND**

The defendant, Somerset Tire Service, Inc., improperly implied as STS Tire and Auto Center, by way of Answer to the plaintiff's Complaint, says:

(Note that all references to STS Tire and Auto Center and/or "STS" in the Complaint will be responded to as though they properly designated the defendant as Somerset Tire Service, Inc.)

PARTIES

1. Denied.
2. Denied except to admit that STS is a New Jersey corporation with a business location at 370 Bloomfield Avenue, Montclair, New Jersey and which maintains a principal office in Somerset County, State of New Jersey.
3. Admitted.
4. Admitted.

FIRST COUNT

AGE DISCRIMINATION UNDER THE LAW AGAINST DISCRIMINATION

N.J.S.A. 10:5-1 ET SEQ.

5. Denied.
6. Denied.
7. Denied.
8. To the extent that the allegations of this paragraph have application to defendant STS, they are denied.
9. Denied.
10. Paragraph 10 of plaintiff's Complaint does not set forth any facts to be either admitted or denied but, rather, sets forth a legal conclusion.
11. Paragraph 11 of plaintiff's Complaint does not set forth any facts to be either admitted or denied but, rather, sets forth a legal conclusion.
12. Denied.
13. Denied.
14. Denied.

WHEREFORE, this defendant demands judgment dismissing the First Count of plaintiff's Complaint.

SECOND COUNT

VIOLATION OF PUBLIC POLICY OF THE STATE OF NEW JERSEY

15. This defendant repeats each and every answer to the allegations of the preceding paragraphs of plaintiff's Complaint as though set forth at length herein.
16. Denied.

17. Denied.

WHEREFORE, this defendant demands judgment dismissing the Second Count of plaintiff's Complaint.

THIRD COUNT

AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967

(ADEA) AS AMENDED, 29 U.S.C.A. 621

18. This defendant repeats each and every answer to the allegations of the preceding paragraphs of plaintiff's Complaint as though set forth at length herein.

19. Denied.

20. Admitted.

21. Denied.

22. Denied.

WHEREFORE, this defendant demands judgment dismissing the Third Count of plaintiff's Complaint.

FIRST SEPARATE DEFENSE

Plaintiff's Complaint fails, in whole or in part, to set forth a claim upon which relief can be granted.

SECOND SEPARATE DEFENSE

To the extent that plaintiff seeks to recover damages which are punitive in nature under either a State cause of action and/or a State common law cause of action, this action is governed by the New Jersey Punitive Damage Act and this defendant demands a separate trial with regard to the same.

THIRD SEPARATE DEFENSE

To the extent that plaintiff seeks to recover damages which are punitive in nature pursuant to any Federal statute, the right to recover said damages and the extent of said damages is limited by the statute creating the cause of action.

FOURTH SEPARATE DEFENSE

This defendant breached no duty owed to plaintiff.

FIFTH SEPARATE DEFENSE

Plaintiff failed to take appropriate steps to mitigate damages.

SIXTH SEPARATE DEFENSE

Plaintiff has failed to exhaust administrative remedies.

SEVENTH SEPARATE DEFENSE

Plaintiff has filed an action seeking to recover damages arising out of the same set of facts by way of complaint with the United States Equal Employment Opportunity Commission and has initiated this action without having first received a "Right to Sue" letter.

JURY DEMAND

PLEASE TAKE NOTICE that this defendant hereby demands a trial by jury as to all issues.

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745 Route 202/206
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By: 

Robert C. Chapin

Dated: May 4, 2010.